

Notice of Allowability

Application No.

09/978,574

Examiner

Alan Diamond

Applicant(s)

ANDERSON ET AL.

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed September 3, 2004.
2. ☒ The allowed claim(s) is/are 43-55.
3. ☒ The drawings filed on 18 October 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In The Claims

Please cancel claims 1-42. This application is in condition for allowance except for the presence of claims 1-42 non-elected without traverse. Accordingly, claims 1-42 have been cancelled.

2. The following is an examiner's statement of reasons for allowance: Upon reconsideration, the Examiner expressly withdraws the 35 USC 102(f) rejection over Anderson et al '076 (U.S. Patent Application Publication 2002/0151076). The material in Anderson et al '076 which reads on the instant claims is in Figures 30A to 30D, 31, and 32, and paragraphs 0184 to 0190. However, this material is not supported by any of the parent applications for Anderson et al '076 and thus, has a filing date of April 4, 2002. The April 4, 2002 filing date is already later than the instant October 18, 2001 filing date by almost 6 months. This later filing date of Anderson et al '076, along with the instant inventor's declaration filed October 18, 2001 certifying that N. Leigh Anderson and Jack Goodman are the instant inventors, is more than sufficient proof to support that N. Leigh Anderson and Jack Goodman are the instant inventors.

Anderson et al '627 (U.S. Patent 5,993,627), in Figures 8A to 8E shows the preparation of a gel. Even if Anderson et al '627's mold (86,87) was considered to be a clamp, the instant claims would not be met. The gel is formed in the mold (68,87), and the mold (86,87) is opened while the gel hangs from electrode rod (94) by gripper (99). There is never any mention of relieving tension in the gel in Anderson et al '627, and the mold (86,87) never goes through a step of "closing" the mold onto said gel. The gel is formed in the mold, but the mold is not closed onto the gel. In Anderson et al '627's Figure 11A, the gel (97) is released from grippers (99) to as to be suspended in tank (130). The electrode rod (94) is supported by projecting supports (131) (see col. 24, lines 15-19). The projecting supports (131) do not grip the gel (97) and thus, Anderson et al et al '627 lacks the instant gel handling assembly. After releasing said grippers (99), there is no motivation to grip Anderson et al '627's gel for a time sufficient to relieve tension in the gel.

Detroy (U.S. Patent 4,035,377) teaches an electrophoresis apparatus wherein clamps (28) are removed, but clamps (30) continue to hold the plates together (see Figure 2; and col. 7, lines 44-55). However, there clearly would be no relieving of tension in the gel while clamps (30) continue to hold the plates together.

U.S. Patents 5,112,470 and 6,652,724 are hereby made of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Diamond whose telephone number is 571-272-1338. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alan Diamond
October 29, 2004

Alan Diamond
Primary Examiner
Art Unit 1753

A handwritten signature in black ink, appearing to read "Alan Diamond", with a stylized flourish at the end.